



# PROPOSED RULE MAKING

**CR-102 (June 2004)**

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Department of Ecology

A.O.# 06-10

- ☒ Preproposal Statement of Inquiry was filed as WSR 06-12-122 ; or  
☐ Expedited Rule Making—Proposed notice was filed as WSR \_\_\_\_\_; or  
☐ Proposal is exempt under RCW 34.05.310(4).

- ☒ Original Notice  
☐ Supplemental Notice to WSR \_\_\_\_\_  
☐ Continuance of WSR \_\_\_\_\_

Title of rule and other identifying information: (Describe Subject) Chapter 173-340 WAC – Model Toxics Control Act Cleanup Regulation. The rule revisions will update and clarify the policies and procedures for establishing and evaluating compliance with cleanup levels and remediation levels for mixtures of polychlorinated dibenzo-p-dioxins/polychlorinated dibenzofurans (dioxins/furans), polycyclic aromatic hydrocarbons (PAHs) and polychlorinated biphenyls (PCBs).

**Hearing location(s):**

See Attached

Date: see attached Time: see attached**Submit written comments to:**

Name: Pete Kmet, P.E.  
Address: Department of Ecology  
Toxics Cleanup Program,  
P.O. Box 47600  
Olympia, WA 98504-7600  
e-mail [pkmet461@ecy.wa.gov](mailto:pkmet461@ecy.wa.gov)  
fax (360) 407-7154  
post mark May 25, 2007

**Assistance for persons with disabilities:** ContactAnn McNeely by April 23, 2007**Date of intended adoption:** June 30, 2007

(Note: This is NOT the effective date)

TTY ( ) \_\_\_\_\_ or (360) 407-7205

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**

Ecology is proposing these rule changes in order to update the policies and procedures for establishing cleanup levels for mixtures of dioxins and furans, polycyclic aromatic hydrocarbons (PAHs) and polychlorinated biphenyls (PCBs).

- Risk Policies Applicable to Certain Mixtures: Ecology is proposing changes to require that cleanup levels for mixtures of dioxins and furans, PAHs and PCBs must each be based on a cancer risk of one-in-a-million.
- Toxic Equivalency Factors Used to Characterize Mixtures: Ecology is proposing to amend the rule to incorporate the most recent toxicity equivalency factors (TEFs) for dioxins/furans and PCBs recommended by the World Health Organization and updated potency equivalency factors (PEFs) for carcinogenic PAHs adopted by the California Environmental Protection Agency.
- Methods for Calculating Soil Cleanup Levels: Ecology is proposing a method for considering the relative bioavailability of soil-bound dioxins and furans when establishing soil cleanup levels.
- Evaluating Cross-Media Impacts: Ecology is proposing to require that cleanup proponents consider the physical-chemical properties of individual PAH compounds or dioxin-congeners when evaluating cross-media impacts.

**Reasons supporting proposal:** Ecology is proposing these rule changes for the following reasons:

- Ensure a consistent and predictable level of protection for Washington communities;
- Ensure that the most current scientific information is used to establish cleanup levels; and
- Minimize administrative cost and project delays.

**Statutory authority for adoption:** RCW 70.105D.030(2)**Statute being implemented:** Chapter 70.105D RCW**Is rule necessary because of a:**

Federal Law?

☐ Yes ☒ No

Federal Court Decision?

☐ Yes ☒ No

State Court Decision?

☐ Yes ☒ No

If yes, CITATION:

DATE 4/2/07

NAME (type or print)

Polly Zehm

SIGNATURE Polly Zehm

TITLE

Deputy Director

**CODE REVISER USE ONLY**

CODE REVISER'S OFFICE STATE OF WASHINGTON FILED	
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WSR <u>07-08-100</u>	

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

Name of proponent: (person or organization) Department of Ecology, Toxics Cleanup Program

☐ Private  
☐ Public  
☒ Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Dave Bradley	Department of Ecology, Headquarters	(360) 407-6907
Implementation..... Jim Pendowski	Department of Ecology, Headquarters	(360) 407-7177
Enforcement..... Jim Pendowski	Department of Ecology, Headquarters	(360) 407-7177

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

☐ Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name: Ann McNeely

Address: 300 Desmond Drive

Lacey WA 98504

phone (360) 407-7205

fax (360) 407-7154

e-mail [amcn461@ecy.wa.gov](mailto:amcn461@ecy.wa.gov)

☒ No. Explain why no statement was prepared.

A small business is defined as, "any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that is owned and operated independently from all other businesses and that has fifty or fewer employees" (RCW 19.85.020). Based on an analysis of actual cleanup levels, and experience administering the existing MTCA rule, Ecology has concluded that small businesses are not likely to be affected by the proposed rule. The rationale for this conclusion can be found in the preliminary Cost-Benefit Analysis.

Is a cost-benefit analysis required under RCW 34.05.328?

☒ Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name: Ann McNeely

Address: 300 Desmond Drive

Lacey WA 98504

phone (360) 407-7205

fax (360) 407-7154

e-mail [amcn461@ecy.wa.gov](mailto:amcn461@ecy.wa.gov)

☐ No: Please explain:

**Hearing location for MTCA Rule Revision:**

- Seattle  
St. Benedict School Cafeteria  
4811 Wallingford Avenue N., Seattle, WA 78103  
May 10, 2007  
Workshop begins at 5:30 P.M, hearing immediately following
- Port Angeles  
Clallam County Courthouse  
223 E. 4<sup>th</sup> Street, Port Angeles  
May 14, 2007  
Workshop begins at 5:30 P.M, hearing immediately following;
- Spokane  
Department of Ecology Eastern Regional Office (Second Floor  
Conference Room)  
May 17, 2007  
4601 N. Monroe Street, Spokane, WA 99205  
Workshop begins at 5:30 P.M, hearing immediately following.